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Fortune O'Sullivan & Hudson  
2 560 Mission Street, 21<sup>st</sup> Floor  
San Francisco, CA 94105  
3 (415) 227-2300

4 Attorneys for Defendant  
5 CB Richard Ellis, Inc. incorrectly  
sued herein as CB Ellison  
6

7  
8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10

11 CORNELIUS LOPES,  
12

13 Plaintiff,  
14

15 vs.  
16

17 FREMONT FREEWHEELERS; K&K  
18 INSURANCE, USA CYCLING NORHTERN  
19 CALIFORNIA AND NEVADA CYCLING  
20 ASSOC. (NCNCA), ROBERT PARKER;  
21 LAWRENCE UPTHEGROVE; LLOYD  
22 RATH; RICHARD BROCKIE, GARY  
23 BIRCH, SALLY WILSON, JASON SAGE,  
24 TIM O'HARA, JEFF WRONG, JOSEPH  
DALE WREN C.B.ELLISON, BRYAN  
SHEPPARD, LARRY NOLAN, STEVE  
GRUSIS, LARRY ROSA FREMONT  
FREEWHEELERS RACE TEAM, LIND  
BUFFETTI, JOE BAUGHMAN AND PETER  
ALLEN, FFBC RACE TEAM ALAMEDA  
COUNTY DISTRICT ATTORNEY,  
NEWARK POLICE DEPT., CASEY  
CARRINGTON, JIM DAVIS, ALAMEDA  
COUNTY SHARA MESIC DEPUTY D.A.,  
LISA FARIA DEPUTY D.A. PETAGREW  
DEPUTY D.A.

25 Defendants.  
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27  
28

Case No.: CV 07-6213 JL

DEFENDANT'S REPLY IN SUPPORT OF  
ITS MOTION TO DISMISS PURSUANT  
TO RULE 12(b)(6)

Date: January 30, 2008


Time: 9:30 a.m.

Courtroom: Magistrate-Judge James Larson

1 Plaintiff has submitted an opposition to defendant's motion that does not address the  
2 legal grounds that defendant has asserted for the court to dismiss this action against it. This  
3 defendant has nothing to do with the various claims and complaints that plaintiff has asserted  
4 against the Newark police or other people associated with the police or a court case that  
5 plaintiff was involved in. Plaintiff had simply sued this defendant for injuries arising out of  
6 an accident that occurred on June 12, 2004. This defendant did not even have any connection  
7 with that accident for which reason plaintiff through is attorney at the time dismissed with  
8 prejudice his lawsuit against this defendant for any injuries arising out of that accident.  
9 Moreover, California Code of Civil Procedure §335.1 bars any suit against this defendant for  
10 that accident or for any other claims even under the federal civil rights statute for claims  
11 arising out of that accident. *McDougal v. County of Imperial*, 942 F.2d 668, 674-675 (9<sup>th</sup>  
12 Cir.1991). Therefore, defendant requests the court grant defendant's motion.

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14  
15 Dated: January 15, 2008

Fortune, Drevlow, O'Sullivan & Hudson

16  
17 By:   
18 Norman La Force  
19 Attorney for Defendant  
20 CB Richard Ellis, Inc. incorrectly  
21 sued herein as CB Ellison  
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